



THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Thursday, February 3, 2011, 2:00 p.m.
State Capitol, Conference Room 325

by
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 555, Relating to Graffiti

Purpose: This bill will limit the imposition of the penalty of removal of graffiti to cases where the removal would not endanger people or inconvenience the public. It also increases the area within which graffiti removal may take place.

Judiciary's Position:

While House Bill No. 555 seeks to amend Section 708-823.6 of the Hawaii Revised Statutes, the Judiciary believes this entire Section may need to be restructured because as it is currently written it cannot be monitored and enforced properly. The eradication of graffiti is an important aspect of restorative justice; however, the current statute is not clear as to whose responsibility it is to oversee an offender who is ordered to remove graffiti from damaged property within 30 days of sentencing. In the Judiciary, First Circuit (Oahu), the Adult/Juvenile Community Service and Restitution Unit (A/JCSRU) is responsible for administering a county-wide community service program, which allows an offender an opportunity to be held accountable for his/her actions. The A/JCSRU has had difficulty recruiting community service agencies to oversee offenders sentenced to perform graffiti removal as someone needs to locate the graffiti and then supervise the offender during the length of time necessary for the eradication. In addition, A/JCSRU does not have sufficient personnel, resources or supplies for graffiti removal, nor are staff authorized to supervise offenders to clean up graffiti.



House Bill No. 555, Relating to Graffiti
House Committee on Judiciary
February 3, 2011
Page 2

Another concern is when graffiti is on private property there may be liability issues with allowing an offender to enter the property to remove the graffiti. Also, it is unclear as to whose responsibility it would be to monitor an offender for two years to have him/her remove graffiti from a specified area and who would be measuring off the extent of the specified area.

On the neighbor islands, the Intake Service Center, which is under the Department of Public Safety (PSD), has been administering the community service sentencing program. However, in early 2010, PSD informed the Judiciary that it did not have the resources to continue to administer the community service sentencing program intake functions in the Second, Third, and Fifth Circuits (Maui, Hawaii, and Kauai, respectively), and asked the Judiciary to assume these functions. In fact, PSD has already discontinued this function in the Second Circuit. While the Judiciary is seeking funding to get positions from the Legislature to implement community service sentencing programs in each of these circuits, the positions being requested are seeking to place offenders into appropriate community service placements.

Thus, although House Bill No. 555 seeks to correct Section 708-823.6 of the Hawaii Revised Statutes, the Judiciary believes that a much broader restructuring of the statute would make the law clearer, and allow the Judiciary to implement the law as it was intended to be enforced.

Thank you for the opportunity to comment on this measure.

I am in support of the graffiti bill which will make offenders responsible for repainting their area within 30 days of sentencing . Please consider this bill so we can keep Hawaii beautiful.

Sincerely-

Kelli Buenconsejo

Private citizen